

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 2828—BONDS AND INSURANCE

Sec.

2828.000 Scope of part.

Subpart 2828.1—Bonds

2828.106-270 Substitution of surety bonds.

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AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

SOURCE: 50 FR 4463, Jan. 30, 1985, unless otherwise noted.

2828.000 Scope of part.

This part prescribes requirements for obtaining financial protection against damages under advertised and negotiated contracts. It covers bid guarantees, bonds, sureties, and insurance. The terms “bid” and “bidders” as used in this part include “proposal” and “offerors.”

Subpart 2828.1—Bonds

2828.106-270 Substitution of surety bonds.

(a) A new surety bond covering all or part of the obligations on a bond previously approved may be substituted for the original bond if approved by the head of the contracting activity.

(b) When the contracting officer determines in writing that it is in the Government's best interest to substitute sureties he will set forth his rationale in the determination and submit it to the head of the contracting activity for approval.

(c) When so approved and authorized by the head of the contracting activity, the contracting officer shall notify the principal and surety of the original bond, that the original bond will not be considered as security for any default occurring after the date of acceptance of the new bond.

Subpart 2828.2—Sureties

2828.203 Options in lieu of sureties.

When contractors submit any of the types of security described in FAR 28.203 in lieu of furnishing sureties, the contracting officer shall enter into an agreement with the contractor covering a bank account, and suitable covenants protecting the Government's interest, in which the securities will be deposited to protect against their loss during the period of the bond obligation.

Subpart 2828.3—Insurance

2828.307 Group insurance plans.

Under cost-reimbursement contracts, before buying insurance under a group insurance plan, the contractor shall submit the plan to the contracting officer for review. During review, the contracting officer should utilize all sources of information available such as audit, industry practices, etc., to determine that acceptance of the group insurance plan, as submitted, is in the Government's best interest, prior to submitting the determination and the plan to the head of the contracting activity for approval.

PART 2829—TAXES

Subpart 2829.1—General

Sec.

2829.101-70 Resolving tax problems.

Subpart 2829.3—State and Local Taxes

2829.303-70 Application of State and local taxes to government contractors and subcontractors.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2829.1—General

2829.101-70 Resolving tax problems.

Agency designated legal counsel is responsible for resolving tax issues which affect the agency.

[50 FR 4463, Jan. 30, 1985]

Department of Justice

2830.201-270

Subpart 2829.3—State and Local Taxes

2829.303-70 Application of State and local taxes to government contractors and subcontractors.

(a) It is DOJ policy that DOJ contracts shall not contain clauses expressly designating prime contractors as agents of the Government for the purpose of avoiding State and local taxes.

(b) Although circumstances may exist under which a contractor is an agent of the Government, even in the absence of a contract clause expressly designating a contractor as such, these circumstances should be extremely rare. Before any DOJ procuring activity may contend that any of its contractors are agents of the Government for the purpose of claiming immunity from State and local sales and use taxes, the matter will be referred to the AAG/A for review, and approval to ensure that DOJ policy is complied with and that the procuring activity's contention is fully in accordance with the pertinent legal principles and precedents. Each case forwarded will be reviewed by the head of the contracting activity before referral to the AAG/A. The referral will include all pertinent data on which the procuring activity's contention is based, together with a thorough analysis of all relevant legal precedents.

(c) Whenever clauses, procedures, and business practices are cited by DOJ procuring activities to support the contention that a contractor is an agent of the Government for the purpose of immunity from a State or local sales or use tax, contracting activities should whenever possible, devise alternative clauses, procedures, and practices for future use which will accomplish their intended purpose without providing the basis for contention that the contractor is an agent of the Government for the purpose of immunity from State and local sales or use taxes. Any referral to the AAG/A for approval under this subpart shall include comments on the extent to which alternative clauses, procedures, or practices may be utilized to accomplish the intended purpose without providing the basis for the contention that the con-

tractor is an agent of the Government for the purpose of immunity from State and local sales or use taxes.

[50 FR 4463, Jan. 30, 1985]

PART 2830—COST ACCOUNTING STANDARDS

Sec.

2830.000 Scope of part.

Subpart 2830.2—Disclosure Requirements

2830.201-270 Impracticability of submission.

Subpart 2830.3—Cost Accounting Standards Contract Requirements

2830.304-70 Waiver.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2830.000 Scope of part.

This part describes policies and procedures for applying the Cost Accounting Standards Board (CASB) standards and regulations which the Administrator of the General Services Administration, as a matter of policy, has directed to be applied to certain non-defense contracts. This part does not apply to formally advertised contracts or to any contract with a small business concern (see FAR 30.301(b) for other exemptions).

[50 FR 4464, Jan. 30, 1985]

Subpart 2830.2—Disclosure Requirements

2830.201-270 Impracticability of submission.

When the contracting officer has determined that it is impractical to secure a Disclosure Statement, as required by FAR 30.202, he/she will document the reasons and rationale for such impracticability and forward the determination, and an explanatory cover letter which sets forth the pertinent circumstances and details the solicitation contracting officer's attempts to secure the Disclosure Statement, to the Procurement Executive for review of the documentation prior to forwarding it to the AAG/A for approval.

[60 FR 40110, Aug. 7, 1995]